



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

MAR 24 2011

Laramie County Commissioners
c/o Diane Humphrey, Chair
310 W. 19th Street
Cheyenne, WY 82001

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Ferdinand Dirt, L.L.C., Owner/operator
Arby's Restaurant-Cheyenne
PWS ID#5601603

Dear Commissioners:

The Safe Drinking Water Act (SDWA) requires that the Environmental Protection Agency (EPA) notify locally elected officials of certain enforcement actions taken in their area. An Administrative Order is being issued to Ferdinand Dirt, L.L.C., as owner/operator of the Arby's Restaurant in Cheyenne, Wyoming.

This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations are for exceeding the total coliform bacteria maximum contaminant level.

For more details, a copy of the Order is enclosed for your information. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Enclosure



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MAR 24 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John J. Maier, Registered Agent
Ferdinand Dirt, L.L.C.
POB 1094
Torrington, WY 82240

Re: Administrative Order
Arby's Restaurant, PWS ID 5601603
Docket No. **SDWA-08-2011-0033**

Dear Mr. Maier:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f et seq. Among other things, the Order describes how Ferdinand Dirt, L.L.C., as owner and/or operator of Arby's Restaurant in Cheyenne, Wyoming, has violated the National Primary Drinking Water Regulations.

The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Ferdinand Dirt, L.L.C. complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

To submit information or request an informal conference with EPA, contact Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. Any questions from your attorney should be directed to Dana Stotsky, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6905, or (303) 312-6905.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy O'Connor".

Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Rick Bentley, Vice President, Ferdinand Dirt
WY DEQ/DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 MAR 24 AM 9:06

IN THE MATTER OF:)
)
Ferdinand Dirt, L.L.C.,)
)
Respondent.)

Docket No. **SDWA-08-2011-0033**

ADMINISTRATIVE ORDER

FILED
EPA REGION VIII
HEARING CLERK

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. Ferdinand Dirt, L.L.C. (Respondent) is a corporation that owns and/or operates the Arby's Restaurant Water System (the system), which provides piped water to the public in Laramie County, Wyoming, for human consumption.
3. The system is supplied by one well and the system's water is treated via activated carbon cartridges for taste and odor control.
4. The system has approximately 1 service connection and regularly serves an average of approximately 300 individuals daily at least 60 days out of the year. Therefore, the system is a "public water system" as defined in § 1401 of the Act, 42 U.S.C. § 300f(4) and 40 C.F.R. § 141.2. The system is also a "transient, non-community water system" as defined in 40 C.F.R. § 141.2.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. If two or more samples collected in any month from the system's water are positive for total coliform, then Respondent has violated the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During each of the months of August and September 2010 two or more samples from the system were positive for total coliform, and, therefore, Respondent violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

7. Respondent shall comply with the total coliform MCL. 40 C.F.R. § 141.63(a)(2). If additional total coliform MCL violations occur while the Order is in effect, EPA may order additional requirements.

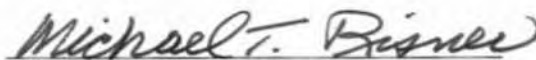
GENERAL PROVISIONS

8. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.
9. Violation of any part of this Order or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued: March 24, 2011.



Darcy O'Connor, Acting Director
Water Technical Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice